

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
SPARTANBURG DIVISION**

LUZ POSSO, Individually and as )  
Guardian of T.M., a minor, )  
 )  
Plaintiffs, )  
 )  
v. )  
 )  
CHRISTOPHER J. MCQUILKIN and )  
HALEY'S TRANSPORTATION )  
GROUP, INC., )  
 )  
Defendants. )  
\_\_\_\_\_ )

Case No.: 7:22-cv-\_\_\_\_\_-\_\_\_\_

**NOTICE OF AND  
PETITION FOR  
REMOVAL**

TO: THE HONORABLE UNITED STATES DISTRICT COURT FOR THE DISTRICT  
OF SOUTH CAROLINA, SPARTANBURG DIVISION;

*and*

BENJAMIN A. PARKER, ESQUIRE of the John Price Law Firm, LLC  
*Attorneys for the Plaintiffs, Luz Posso, Individually and as guardian of T.M.,  
a, NAMED ABOVE:*

The Defendant, Christopher J. McQuilkin, and the Defendant, Haley's Transportation Group, Inc. (collectively "Hale's Transportation" unless the context requires individual designation), pursuant to 28 U.S.C. §§ 1441, 1446 (Thomson Reuters West 2010), hereby jointly removes the above-entitled motor vehicle accident civil action from the Court of Common Pleas for Cherokee County, State of South Carolina (the "State Court Action"), to this United States District Court for the District of South Carolina, Spartanburg Division.

1. The State Court Action, currently pending in the Court of Common Pleas for Cherokee County, State of South Carolina, pursuant to Civil Action No. 2022-CP-11-00442, was instituted on or about 11 July 2022, by the Plaintiffs, Luz Posso, Individually and as guardian of T.M., a minor ( collectively "Ms. Posso").<sup>1</sup>

2. This *Notice of and Petition for Removal* is filed within thirty (30) days of the service of a copy the Summons and Complaint in the State Court Action upon Haley's Transportation, pursuant to 28 U.S.C. § 1446(b) (Thomson Reuters West (2021)).

3. Mr. McQuilkin consents to and joins in the removal of this civil action from South Carolina State Court to this United States District Court, pursuant to 28 U.S.C. § 1446(b)(2)(C) (Thomson Reuters West 2021).<sup>2</sup>

4. Service of process was accomplished upon the Defendant, Christopher J. McQuilkin, on **10 August 2022**, via substituted service of process service upon the Director of the South Carolina Department of Motor Vehicles (the "SCDMV"), pursuant to S.C. Code Ann. §§ 15-9-350, 360 (Thomson Reuters West 2021) and, in turn, the SCDMV then notifying Mr. McQuilkin of the service of process acceptance by a copy of the same via United States Mail, Certified Mail, Return Receipt Requested at his address: 3608 Vegas Lane, Louisville, Tennessee 37777.<sup>3</sup>

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<sup>1</sup> Copies of all relevant pleadings filed in the State Court Action are collectively attached hereto as Exhibit "A" and incorporated herein by reference as are all other exhibits herein.

<sup>2</sup> A copy of the Consent to Removal dated 20 September 2022, is attached hereto as Exhibit "B".

<sup>3</sup> A copy of the Service of Process acceptance letter from the SCDMV dated 10 August 2022, is attached hereto as Exhibit "C".

5. Service of process was accomplished upon the Defendant, Haley's Transportation Group, Inc., on **1 September 2022**, via substituted service of process service upon the Office of the Secretary of State for the State of South Carolina (the "SCSOS"), pursuant to S.C. Code Ann. § 15-9-245 (Thomson Reuters West 2021) and, in turn, the SCSOS then notifying Haley's Transportation of the service of process acceptance by a copy of the same via United States Mail, Certified Mail, Return Receipt Requested sent to the address of its registered agent – Lorenzo Jones – at 8084 Turtle Creek Road, Columbus, Georgia 31909.<sup>4</sup>

6. Ms. Posso named Mr. McQuilkin and Haley's Transportation as party-defendants in the State Court Action.

7. Ms. Posso has alleged that she is a citizen and resident of the County of Queens, State of New York.<sup>5</sup>

8. Ms. Posso has alleged that T.M., her daughter and the minor plaintiff for which Ms. Posso acts as guardian, is also a citizen and resident of the County of Queens, State of New York.<sup>6</sup>

9. Ms. Posso has asserted Mr. McQuilkin is a citizen and residence of the County of Blount, State of Tennessee.<sup>7</sup>

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<sup>4</sup> A copy of the Service of Process acceptance letter from the SCSOS dated 1 September 2022, is attached hereto as *Exhibit "D"*.

<sup>5</sup> See State Court Complaint, para. 1.

<sup>6</sup> *Id.*, at para. 2.

<sup>7</sup> *Id.*, at para. 3.



10. Ms. Posso has alleged that Haley's Transportation is a corporation operating under the laws of the State of Georgia with its principal place of business located in the State of Georgia, but which conducts business in the State of South Carolina.<sup>8</sup>

11. Ms. Posso has alleged that she and T.M. were involved in an automobile accident (the "Accident") with Mr. McQuilkin on 14 July 2019, near the intersection of Interstate 85 and Hyatt Street in Gaffney, South Carolina<sup>9</sup> and that, at the time of the Accident, Mr. McQuilkin was operating a vehicle for the purpose of transacting business for Haley's Transportation.<sup>10</sup>

12. In the State Court Action, Ms. Posso has asserted a cause of action for negligence against both Mr. McQuilkin and Haley's Transportation<sup>11</sup> seeking an unspecified amount of actual and punitive damages.<sup>12</sup>

13. In addition to the negligence cause of action in the State Court Action, Ms. Posso has also asserted a cause of action against Haley's Transportation for negligent hiring, training, and supervision<sup>13</sup> seeking an unspecified amount of actual and punitive damages. <sup>14</sup>

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<sup>8</sup> *Id.*, at para. 3.

<sup>9</sup> *Id.*, at paras. 11, 14-15.

<sup>10</sup> *Id.*, at para. 5.

<sup>11</sup> *Id.*, at paras. 14-24.

<sup>12</sup> *Id.*, at paras. 25-26.

<sup>13</sup> *Id.*, at paras. 28-33.

<sup>14</sup> *Id.*, at para. 34.

14. In the State Court Action Ms. Posso Logisticare has asked for an award against Mr. McQuilkin and Haley's Transportation for unspecified actual damages, unspecified punitive damages, and litigation costs.<sup>15</sup>

15. As evidenced by the allegations asserted by Ms. Posso in the State Court Action collectively against both Mr. McQuilkin and Haley's Transportation, as well as individually against Haley's Transportation, the amount in dispute could easily and, in fact, most likely does exceed, exclusive of the inclusion of any interest and/or costs, the sum or value of Seventy-Five Thousand and No/100 (\$75,000.00) Dollars in light of the damages which Ms. Posso seeks, both individually and as the guardian for T.M.

16. This District Court has diversity jurisdiction over this action, pursuant to 28 U.S.C. § 1332, as the citizenship of the relevant parties, namely, Ms. Posso and T.M. (New York), Mr. McQuilkin (Tennessee), and Haley's Transportation (Georgia), are completely diverse.

17. Furthermore, this District Court has diversity jurisdiction over this action, pursuant to 28 U.S.C. § 1332(a) (Thomson Reuters West 2010), in that the amount in controversy herein this dispute could and, indeed, most probably does exceed, exclusive of interest and costs, the sum or value of Seventy-Five Thousand and No/100 (\$75,000.00) Dollars since the evidence shows that Ms. Posso is seeking an award of unspecified actual damages, unspecified punitive damages, and litigation costs.

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<sup>15</sup> *Id.*, at paras. 25-26, 34, WHEREFORE Clause.

18. Consequently, as an action of a civil nature in which the citizenship of the parties (Ms. Posso, T.M., Mr. McQuilkin, and Haley's Transportation) is completely and totally diverse, this matter may properly and validly be removed to this District Court pursuant to the provisions of 28 U.S.C. § 1441(b) (Thomson Reuters West 2021).

19. As of the date of the filing hereof, neither Mr. McQuilkin nor Haley's Transportation have filed any pleadings and/or otherwise made an appearance in the State Court Action.

20. Mr. McQuilkin and Haley's Transportation jointly file the Notice and Petition for Removal and, as previously mentioned, have attached hereto a copy of all process, pleadings, and Orders served upon them in this action, being the Summons and Complaint previously filed by Ms. Posso, as well as copies of the Acceptance of Service Letters (via statutory substituted service) issued by the SCDMV and the SCSOS.

21. Mr. McQuilkin and Haley's Transportation will timely provide a copy of this *Notice of and Petition for Removal* to the Clerk of Court for the Cherokee County Court of Common Pleas.

22. Mr. McQuilkin and Haley's Transportation contemporaneously serves their joint *Answer*, their joint *Rule 7.1 FRCivP, Corporate Disclosure Statement*, and their joint responses to *DSC Local Civil Rule 26.01 Interrogatories*.

WHEREFORE, pursuant to 28 U.S.C. §§ 1441 and 1446, in conjunction with 28 U.S.C. § 121(5), the Defendants, Christopher J. McQuilkin and Haley's Transportation Group, Inc., hereby removes this matter from the Court of Common Pleas for Cherokee County to the United States District Court for the District of South Carolina, Spartanburg Division.

Respectfully submitted:

*BUTLER SNOW LLP*

By: **s/Stephen P. Groves, Sr.**

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Charleston, South Carolina

23 September 2022